

Chapter 7

Public Officers' Attorney Fees Act

Part 1

General Provisions

52-7-101 Title.

This chapter is known as the "Public Officers' Attorney Fees Act."

Enacted by Chapter 382, 2008 General Session

52-7-102 "Public officer" defined.

As used in this chapter:

"Public officer" means a member of the Utah State Senate, a member of the Utah State House of Representatives, the governor, lieutenant governor, state auditor, state treasurer, attorney general, or any justice or judge of a court of record.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 2

Claims for Attorney Fees

52-7-201 Reimbursement of attorney fees and court costs in Article V lawsuits.

If any public officer is named as a defendant in a civil suit that alleges a violation of Article V of the Utah Constitution, and that lawsuit is dismissed or results in a judgment in favor of the defendant, the public officer may, by complying with the requirements and procedures of this chapter, submit a claim to the state for reimbursement of the defendant's reasonable attorney fees and court costs necessarily incurred in the defense of that civil suit.

Renumbered and Amended by Chapter 382, 2008 General Session

52-7-202 Procedure for submitting claim -- Representation of certain public officers by named counsel -- Certain claims barred.

(1) From and after July 1, 1987, within 30 days after a public officer is served with a copy of the complaint, a public officer named as a defendant in a civil suit that alleges a violation of Article V of the Utah Constitution shall provide the Legislative Management Committee and the legislative general counsel with the following information:

- (a) a brief summary of the claims against him;
- (b) the name of the attorney or law firm that will represent him;
- (c) the estimated hourly fee that the attorney or law firm will charge for representing the public officer; and
- (d) an estimate of the hours that the attorney projects are necessary to resolve the lawsuit.

(2)

- (a) Unless prohibited by the rules governing the conduct of attorneys adopted by the Utah Supreme Court under the authority of Article VIII, Sec. 4 of the Utah Constitution, the Office of the Attorney General, the Office of Legislative Research and General Counsel, or the general

counsel for the judicial branch shall represent a public officer named as a defendant in a civil suit that alleges a violation of Article V of the Utah Constitution if the Utah Constitution, statutes, or rules require that such representation be provided.

- (b) If a public officer is represented by the Office of the Attorney General, the Office of Legislative Research and General Counsel, or the general counsel of the judicial branch under Subsection (2)(a), the public officer may not present a claim for attorney fees or court costs under this chapter.

Renumbered and Amended by Chapter 382, 2008 General Session

52-7-203 No review by Board of Examiners.

The Board of Examiners may not review any claims submitted under the authority of this chapter.

Renumbered and Amended by Chapter 382, 2008 General Session

52-7-204 Claim and bill given to legislative fiscal analyst and Office of Legislative Research and General Counsel -- Independent review available -- Private sources of funds to be considered -- Power of Legislature to adjust or refuse claim.

- (1) A public officer who meets the requirements of this chapter shall submit the public officer's claim for payment of attorney fees and court costs, and a copy of the bills that the public officer received from the attorney who represented him, to both the Office of the Legislative Fiscal Analyst and the Office of Legislative Research and General Counsel.
- (2) Upon receipt of a claim from the public officer, the legislative fiscal analyst or the legislative general counsel may, at the direction of the Legislative Management Committee, submit the claim for attorney fees to an independent entity to review the attorney fees and to recommend an appropriate fee.
- (3) In considering whether or not to pay the claim, the Legislature may consider whether or not there are other sources, including private sources, to pay the claim.
- (4) The Legislature may pay the claim in full, adjust the claim, or refuse to pay the claim.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 3 Application

52-7-301 Retrospective application of chapter.

This chapter applies to any claim arising prior to the effective date of this chapter if that claim is filed with the Legislature within two years after the lawsuit was filed.

Renumbered and Amended by Chapter 382, 2008 General Session